

# **ZONING BOARD OF REVIEW**

## **Barrington, Rhode Island**

### **December 18, 2014**

**APPLICATIONS #3781, 3782, 3788, 3789**

#### **MINUTES OF THE MEETING:**

At the call of the Chairman, Thomas Kraig, the Board met with Paul Blasbalg, Peter Dennehy, Mark Freel, Elizabeth Henderson, Ladd Meyer and David Rizzolo.

Also present were Assistant Solicitor Amy Goins, Building Official Bob Speaker and Secretary Audra Raleigh.

At 7:04 P.M. Mr. Kraig called the meeting to order.

#### **MINUTES OF THE PREVIOUS MEETING:**

**MOTION:** Mr. Rizzolo made a motion to approve the November 20, 2014 minutes as written. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

**Application #3781, Steve Thys, 150 Nayatt Road, Barrington, RI 02806, applicant, and Rhode Island Country Club, 150 Nayatt Road, Barrington, RI 02806, owner, for permission to add 106' x 42' building, move gasoline AST and diesel AST to same location, add 20' x 80' material storage bins, complete paving, and add loft inside existing building, Assessor's Plat 6, Lot 001m RE District, 150 Nayatt Road, Barrington, RI 02806, requiring a special use permit for accessory use (golf course).**

Present: Stephen Carlotti, partner, Hinckley Allen, 50 Kennedy Plaza, Suite 1500, Providence, RI  
Paul Kilmartin  
Tom Hall, President, RI Country Club  
Steve Thys, course superintendent  
Mr. Scotti, Peter Scotti & Associates, 246 Hope Street, Providence, RI

Mr. Thys explained to the Board that there is a lack of storage for the Club's existing outdoor equipment. The equipment is currently sitting outside in the elements. He clarified that this is an expansion of storage, not a transfer of storage. The back of the building will be a lean-to.

Mr. Thys stated that they are proposing to move the existing storage tanks away from their present location near Nayatt Road. There will be shrubbery and hedges to make the tanks almost invisible. In their new, proposed location, the tanks are approximately 450 feet from the closest neighbor. He reported that they have spoken with the Fire Chief, who gave his approval on the plan. Questions were raised with regard to the location of the fertilizer storage in relation to the fuel tanks. Mr. Carlotti stated that the tanks, buildings, and contents will meet all life safety codes; all the wiring is fireproof, the current building is concrete and the new building will be steel.

There will be an expansion of asphalt pavement outside of the building which will reduce the amount of dirt and debris that will be brought into the storage facility and will also be used for washing the carts and equipment. The building/pavement will be pitched so that any spillage or runoff will drain into one of two catch basins.

Mr. Scotti addressed the Board stating that his report, submitted at Exhibit 9, shows that the proposed building (which is south of the current building) will have no impact on the surrounding areas, will be 450-475 feet away from them, will have no visibility from the nearby houses and will not be inimical to public health.

This new building will provide an additional 1,650 feet of storage with a loft and will be used for primary mechanical equipment storage, then to store off-season smaller equipment. The justification for the size is that much of the equipment is heavy and cannot be moved up or down stairs.

Mike Dwyer, 49 Pezzullo Avenue, Barrington, RI spoke against this application. Mr. Dwyer explained that he has lived next to the Country Club for 16 years; there was no maintenance building when he moved in. He noted that the proposed building is next to the third largest herring run in the country. Mr. Dwyer noted that Pezzullo Avenue is a one lane, dead end road with no fire hydrants. He said there is a noise issue already with the Country Club employees starting mowers, etc. at 5:30am, and that he feels there will be more activity with trucks delivering hazardous materials; he already has to look at a blue dumpster and an old car.

Mr. Carlotti stated that the Country Club has had preliminary discussions with DEM and CRMC, and expects their approval. Gasoline is delivered to the property currently every three weeks at peak use, less often off-season, and the road does not need to be paved to do so. Presently, the gas trucks enter from Nayatt Road and with the proposed plan, they will enter from Middle Highway. He also noted that CRMC will not give approval until all other permits have been obtained.

At 8:26 p.m., the public portion of the hearing was closed.

**MOTION:** Mr. Freel made a motion to approve the application. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

#### **DISCUSSION:**

The Board members stated they were in favor of approving this application for the following reasons:

- The applicant will need CRMC assent; environmental issues will be taken care of then – this application does not raise an environmental issue that is within the Board's purview.
- The proposed plan shows that the club will continue to do the same things that are done now, just in a different location.
- The new plan is a consolidation of fueling needs and may reduce vehicle traffic within club grounds.

#### **REASON FOR DECISION:**

It was the judgment of the Board that the standards in §185-73 have been met: A) that the public convenience and welfare will be substantially served; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan; C) that it will not result in or

create conditions that will be inimical to the public health, safety, morals and general welfare of the community; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district. The Board further found that the standards in §185-74 have been met: A) that it will not result in the creation of increase in any undesirable impacts related to the use, such as excessive noise, traffic and waste generation; B) that the general visual appearance of the nonconforming use shall not be altered in way so as to heighten or make more apparent its nonconformity and, where possible, shall be improved so as to be more consistent with the surrounding area; C) that it will not have a negative impact on the natural environment or on any historic or cultural resource; and D) that the resulting nonconforming use will be a beneficial use to the community.

**Application #3782, William Wayland, 9 Veritas Way, Barrington, RI 02806 applicant and owner, for permission to maintain existing deck which is within the side yard setback of 14' at 7.2' from the property line, Assessor's Plat 35, Lot 23, R-25 District, 9 Veritas Way, Barrington, RI 02806, requiring dimensional relief for side yard setback.**

This applicant sent a letter to withdraw his application without prejudice.

**MOTION:** Mr. Freel made a motion to withdraw the application without prejudice. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

**Application #3788, Harry Palagi, Jr., 60 Anoka Avenue, Barrington, RI 02806, applicant and owner, for permission to unmerge two lots, keeping separate zoning designations, and to build a two-story structure with a commercial use on the first floor and residential use on the second floor, Assessor's Plat 23, Lot 170, R-10 and NB Districts, 60 Anoka Avenue, Barrington, RI 02806, requiring special use permit to unmerge lots.**

*Mr. Freel recused himself from this application.*

Present: Paul Ryan, 201 Washington Road, Barrington, RI  
Harry Palagi, Jr., 60 Anoka Avenue, Barrington, RI 02806

Mr. Ryan submitted Exhibit 1, which was taken from the newly written Comprehensive Plan. He explained that the lot on Anoka is in an R-10 zone, while the one on Waseca is in a NB zone. These two lots used to exist as separate lots prior to inclusionary zoning; due to the merger of the lots, it is now a through lot. Exhibit 2 - a collage of four photos - was submitted.

Mr. Ryan stated that his client intends to unmerge the lots back to the way they had originally been so that at some point the undeveloped lot may be utilized by a business or sold.

Irene Ruggeri, 211 Waseca Avenue, Barrington, RI, spoke in opposition to the application, stating that she was very concerned about the parking for a future business, as it may encroach on her property.

Mr. Ryan noted that the applicant was not seeking parking relief and would have to comply with the parking requirements or come before the Board in the future. The Board noted that the application was being considered on this basis.

At 9:33 p.m., the public participation portion of the hearing was closed.

**MOTION:** Mr. Rizzolo made a motion to approve the application. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

**DISCUSSION:**

The Board members stated they were in favor of approving this application for the following reasons:

- The applicant does not have any existing plans for the separate lots, but wants to separate them for future sale or business use.

**REASON FOR DECISION:**

It was the judgment of the Board that the standards in §185-73 have been met: A) that the public convenience and welfare will be substantially served; B) that it will be in harmony with the general purpose of this chapter, and with the Comprehensive Community Plan; C) that it will not result in or create conditions that will be inimical to the public health, safety, morals and general welfare of the community; D) that it will not substantially or permanently injure the appropriate use of the property in the surrounding area or district. The Board further found that the standards in §185-29 have been met in that the lots, as unmerged, will be of a size generally in conformance with the size of developed lots in the immediate vicinity.

**Application #3789, JPS Construction and Design, 575 East Main Road, Suite 3A, Middletown, RI 02842, applicant, and Douglas Moshier, 30 Howard Street, Barrington, RI 02806, owner, for permission to rebuild existing front entry stairs and build 8' deep by 20' wide covered porch on front of house, Assessor's Plat 17, Lot 152, R-10 District, 30 Howard Street, Barrington, RI 02806, requiring relief for front yard setback.**

Present: Doug Moshier, 30 Howard Street, Barrington, RI  
Unidentified individual

The applicant is seeking five feet of relief to expand the existing covered entry on the house. The applicant explained that the proposed depth for the porch was the minimum that would permit use of the porch for outdoor sitting.

There was no one in the audience to speak in favor or opposition to the application.

At 9:42 p.m., the public participation portion of the hearing was closed.

**MOTION:** Mr. Blasbalg made a motion to approve the application. Mr. Freel seconded the motion and it carried unanimously (5-0).

**DISCUSSION:**

The Board members stated they were in favor of approving this application for the following reasons:

- This proposal is in line with the Comprehensive Community Plan which has the objective of adding to the social aspect of the town and bringing people outside to be together.

**REASON FOR DECISION:**

It was the judgment of the Board that the standards in § 185-69 have been met: A) that the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and is not due to an economic disability of the applicant; B) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain; C) that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the comprehensive Plan; D) that the relief to be granted is the least relief necessary. Additionally, the standards for a dimensional variance set forth in § 185-71 have been met because the applicant has proved that the hardship to be suffered by the owner, absent granting the relief, would amount to more than a mere inconvenience.

**Other Business**

The Board was asked to review a previously denied application that has a new proposed plan to see if the plan is different enough to warrant permitting the applicant to resubmit within the one-year bar period. After review, the Board determined the application was different enough to permit resubmission within the one-year period.

**MOTION:** Mr. Freel made a motion to permit the application on the same parcel as the previous denial. Mr. Dennehy seconded the motion and it carried unanimously (5-0).

**REASON FOR DECISION:**

It was the judgment of the Board that based on § 185-65, the one-year waiting period could be waived because the subsequent application was accompanied by an affidavit presenting facts, to the satisfaction of the Board, showing that a substantial change in the factual circumstances exists, justifying a rehearing.

**ADJOURN:**

There being no other business, Mr. Blasbalg moved to adjourn at 10:00 P.M. Mr. Freel seconded the motion and the meeting was adjourned.

Respectfully submitted,

Audra Raleigh, Secretary  
Mary Ann Rosenlof, Administrative Assistant  
Thomas Kraig, Chairman

cc: Andrew Teitz, Solicitor